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COMMISSION ON HUMAN RIGHTS
Forty-seventh session
Agenda item 11 (b)

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Written statement submitted by the Inter-Parliamentary Union, a non-governmental organization in consultative status (Category I)

The Secretary-General has received the following communication which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[30 January 1991]

1. In the context of its human rights programme, the Inter-Parliamentary Union has conducted a survey designed to make an inventory of formal or informal parliamentary bodies for human rights issues as they exist at present in some of the 145 national Parliaments.

2. The survey was carried out following the adoption by the Inter-Parliamentary Council (the plenary governing body of the Organization) in September 1989 of a resolution calling on all Parliaments to establish parliamentary bodies for the promotion and protection of human rights.

3. The resolution also encourages the formation of groups of parliamentarians working in particular for the release of political prisoners and an end to both torture and executions; it stresses that parliamentarians, through greater involvement in human rights issues, could exert pressure on foreign Governments regarding human rights abuses, and could also exert pressure on their own Governments to encourage consistent and impartial action on behalf of the victims of such violations by means of bilateral representations.

4. The results of the survey are included in a World Directory of Parliamentary Human Rights Bodies, which is available upon request. This Directory, which was conceived as a compilation of data and a reference tool on existing parliamentary mechanisms in the human rights field, contains, in the form of dated country sheets, information provided officially by Parliaments and by international parliamentary assemblies and institutions, including the Inter-Parliamentary Union itself, on:

(a) Formal parliamentary bodies (committees, sub-committees and ad hoc committees) which have an explicit mandate to deal with human rights issues or do so occasionally, at the national or international level;

(b) Informal parliamentary bodies (groups of parliamentarians) active in this field.

Whenever no such human rights body existed any comment received in that respect was reproduced.

5. As the survey has led to the establishment of bodies in Parliaments which did not yet have them and the development of those already in existence, the Inter-Parliamentary Union has decided to publish an updated version of the Directory in the next few months.

6. The Directory does not contain an analysis of the situation or trends revealed by the survey. In order to do so, it would be necessary to have information not only on existing parliamentary mechanisms to deal with human rights issues but also on their concrete achievements, and it is on the basis of such a body of data that the Union plans to deepen in the future its reflection on the role of Parliament as the guardian of human rights.

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COMMISSION ON HUMAN RIGHTS
Forty-seventh session
Agenda item 10 (c)

QUESTION OF THE HUMAN RIGHTS OF ANY PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES

Written statement submitted by the Inter-Parliamentary Union, a non-governmental organization in consultative status (category I)

The Secretary-General has received the following communication which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[30 January 1991]

1. Taking up the question of the forced disappearance of two members of the Chilean National Congress under the régime of General A. Pinochet Ugarte, the Inter-Parliamentary Council (the plenary governing body of the Organization) stressed in April 1990 and reiterated in October 1990 that "regardless of any decision relating to the applicability of the Decree-Law on Amnesty in cases of forced disappearance and torture, it is the legitimate right of the relatives of victims to know what has become of the 'disappeared' persons, to recover their remains in the event of death and to obtain reparation, including the payment of adequate material compensation.

2. It may be recalled that the Supreme Court of Chile ruled on 28 September 1990 that Decree-Law No. 2191 of 1978, commonly known as D.L. on Amnesty, was constitutional. For its part, the Inter-Parliamentary Council has noted "with great concern that that decision has the effect of closing or, as the case may be, preventing any criminal proceedings against 'persons who, as author, accomplice or receiver, have taken part in criminal acts such as the forced disappearance of persons and the use of torture throughout the state of siege, that is, between 11 September 1973 and 10 March 1978' (Article one of the Decree-Law), and of absolving them of any responsibility even before the examination of existing evidence, thus weakening respect for the rule of law."

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COMMISSION ON HUMAN RIGHTS
Forty-seventh session
Agenda item 10 (a)

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Written statement submitted by the International Federation of Human Rights, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[21 January 1991]

1. Guatemala signed the Inter-American Convention to Prevent and Punish Torture, with the reservation that "under internal law, once remedies have been exhausted, a ruling for the acquittal of a person charged with the offence of torture shall remain final and cannot be submitted to any international authority", which affords protection to tortures.

2. Since April 1990, it has also been a signatory of the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, to which it initially entered reservations similar to that quoted above, but then withdrew them on 6 June 1990 under strong national and international pressure.

3. Although in internal law, and specifically in the Political Constitution of the Republic of Guatemala, torture is not expressly prohibited, article 3 of the Constitution states "The right to life. The State guarantees and protects human life from the time of conception, as well as the integrity and security of the person". In addition, articles 6 to 17 of the Constitution describe clearly the procedure to be followed in arresting persons, as well as the rights of detainees.

4. Moreover, article 19 refers to the penitentiary system which "must aim at the social rehabilitation and reformation of prisoners" following minimum rules, one of which is "(a) Prisoners must be treated as human beings; they must not be discriminated against on any ground nor may they be subjected to cruel treatment, physical, moral or psychological torture, coercion or harassment, labour incompatible with their physical condition, or treatment impairing their dignity ...". Consequently, on the basis of international norms and internal legislation, torture must not be practised in Guatemala and persons who are serving terms of imprisonment must be treated with dignity.

5. The prison situation in Guatemala is similar to that in other Latin American countries: overcrowding, subhuman living conditions, corruption, abuses by the prison authorities and cruel and inhuman treatment. Accordingly, we shall refer here only to politically motivated torture, since torture has been practised in Guatemala for decades.

6. In his report on the situation in Guatemala (document E/CN.4/1990/17), submitted to the Commission following a visit to Guatemala in 1989, the Special Rapporteur on torture, Mr. Peter Kooijmans, stated that: "Basic human rights violations, such as enforced or involuntary disappearances, torture and arbitrary executions, seem to be inextricably linked in Guatemala". Throughout 1990, systematic human rights violations, beginning with the enforced disappearance of an individual, continued. The disappearance is followed by the use of physical and psychological torture in some secret place of detention and in most cases culminates in the discovery of the body on a public thoroughfare.

7. Those responsible for such violations are actually members of the clandestine repression apparatus co-ordinated by the army's intelligence unit (S-2, formerly G-2), whose identity is never known and who are thus guaranteed impunity. As a result, torture in Guatemala is shrouded in secrecy: the identities of those arresting the victims are unknown, as are the places where they are tortured and the plates of the vehicles from which the bodies are thrown.

8. Between 1 January and 12 December 1990, the Commission on Human Rights of Guatemala (CDHG), which is a member of our Federation, recorded the discovery of the bodies, bearing marks of torture, of 126 persons whose disappearance had not been reported and 56 cases of persons reported as having disappeared, whose bodies also were found with marks of torture. This makes a total of 182 cases of persons who were executed extrajudicially after being tortured.

9. The marks of torture on the bodies included the following: eight had burns, probably from cigarettes; two had been burned with a torch (used for welding metals); 12 had had extremities or genitals cut off and two had had their eyes gouged out. In addition to marks of torture, the bodies almost invariably bore bullet wounds and/or signs of the coup de grâce and some were found in sacks or nylon bags.

10. Finding such bodies on the public thoroughfare or witnessing a lifeless body being thrown from a moving vehicle provokes silent terror among the Guatemalan population. Indeed, the aim of such extrajudicial executions is not merely to physically eliminate the person in question, but to terrorize the population, who feel completely helpless and insecure in the face of the absolute impunity with which those responsible operate.

11. It is very difficult to obtain first-hand accounts of torture in Guatemala, since the victims are almost invariably executed and the few who survive are afraid to speak. Cases in which a missing detainee manages to escape his captors alive are exceptional. It is even more exceptional for such persons to give evidence since, in the circumstances described, the psychological pressure, (including threats against relatives) is such that any person surviving almost always prefers to remain silent, even in exile. In cases where the victims do give evidence, the security forces resort to incredible explanations. For example, Government spokesmen described the case of Sister Diana Mack Ortiz, a member of the Ursuline order and a United States citizen, as one of "self-abduction", despite the fact that there were more than 100 cigarette burns on her body.

12. This harsh reality is compounded by the inefficiency and ineffectiveness of the judicial system. The administration of justice in Guatemala is hamstrung not only by the shortcomings of investigation procedures, but above all by death threats and intimidation to which judges are subjected. Threats are also made against the relatives of victims who have tried to obtain justice.

13. In some cases, such threats have been carried out. On 29 November 1990, Urbano Efraín Alvarado Mejia, the brother of Sergio Danilo Alvarado Mejia, a university student who was abducted, tortured and executed in October 1987, was extrajudicially executed. Urbano Efraín Alvarado had for three years been trying to obtain justice by having the six police officers responsible for his brother's death tried and punished. While endeavouring to exercise that right, he too had fallen victim to the clandestine repression apparatus.

14. Consequently, in addition to the link between enforced or involuntary disappearances, extrajudicial execution and torture noted by Mr. Kooijmans in his report, there is also the failure to administer justice. All this means that, in Guatemala, there is a climate of systematic violation of human rights, which occur, in the words of the Special Rapporteur, "in a kind of clair-obscur where lawlessness and violence are rampant, and it seems virtually impossible to penetrate this clair-obscur unless there is a strong political will on the part of all political forces to do so".

15. The International Federation of Human Rights therefore requests the Commission on Human Rights to appoint a Special Rapporteur or Special Representative for the situation in Guatemala to prepare a preliminary report for the forty-sixth session of the General Assembly and a final report for the forty-eighth session of the Commission.

16. The International community, through the United Nations and, in particular, through its Commission on Human Rights, must support the efforts being made by the people of Guatemala to exercise their legitimate rights, must keep the situation under closer scrutiny and must forcefully condemn the continuation of systematic violations of human rights.